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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,815	07/25/2005	Giuseppe Baldacchini	TORT-1010	5469
45263	7590	03/22/2006	EXAMINER	
MITCHELL P. BROOK C/O LUCE, FORWARD, HAMILTON & SCRIPPS LLP 11988 EL CAMINO REAL, SUITE 200 SAN DIEGO, CA 92130			SANEI, MONA M	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/519,815	Applicant(s) BALDACCHINI ET AL. 	
	Examiner Mona M. Sanei	Art Unit 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) 6-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20041229</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to because the unlabeled rectangular box(es) shown in the drawings are not provided with descriptive text labels.

The drawings are objected to because Figures 2-4 are too dark and therefore unclear.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 6-11 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2882

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 5, states "...it comprises a...". However, it is indefinite as to what "it" is referring to. "It" may be referring to the method for detection, the mask, the biological specimen, the ionizing radiation, etc. Since it is not clear as to what "it" is referring to, the claim has been rejected for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2-5 are rejected by virtue of their dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Feller et al. (2002/0020817).

Feller et al. discloses a method characterized in that an ionizing radiation ([0077], lines 1-13) and ([0107], lines 55-56) has an energy comprised between 20 and 2000 eV ([0082], lines 1-15) and a detector ([0054], lines 1-8) consisting of LiF ([0065], lines 1-9) designed to receive the ionizing radiation.

Art Unit: 2882

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feller et al. as applied to Claim 1 above.

Feller et al. discloses all the characteristic features of the present invention as recited above.

However, Feller et al. fails to disclose a method characterized in that the ionizing radiation deposits on the detector a power $\geq 10 \text{ mW/cm}^3$.

It would have been obvious to one of ordinary skill in the art at the time of the invention to disclose an ionizing radiation that deposits on a detector a power $\geq 10 \text{ mW/cm}^3$ since discovering an optimum or working range involves only routine skill in the art.

One would have been motivated to make this modification in order to increase the absorbing ability of the detector.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feller et al. as applied to Claim 1 above, and further in view of Eden et al. (4,606,034).

Feller et al. discloses all the characteristic features of the present invention as recited above.

Feller et al. further discloses a strip of target material (Fig. 5, target).

Art Unit: 2882

However, Feller et al. fails to disclose a method characterized in that the radiation is generated by a plasma-laser system, wherein the plasma-laser system comprises a XeCl pulsed excimer laser.

Eden et al. discloses a method characterized in that radiation is generated by a plasma-laser system, wherein the plasma-laser system comprises a XeCl pulsed excimer laser (Col. 5, lines 38-47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method disclosed by Feller et al. by incorporating the feature(s) disclosed by Eden et al.

One would have been motivated to make this modification in order to enhance laser power output (see title) as implied by Eden et al.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mona M. Sanei whose telephone number is (571) 272-8657. The examiner can normally be reached on Monday through Friday, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


mms


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER